

JUL 24 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK  
BY: *J. M. M.*  
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IN RE: ) Civil Action No. 7:09-cv-00284  
KENNETH EDWARD BARBOUR ) Civil Action No. 7:09-cv-00285  
 ) Civil Action No. 7:09-cv-00286  
 ) Civil Action No. 7:09-cv-00287  
 ) Civil Action No. 7:09-cv-00293  
 ) Civil Action No. 7:09-cv-00296  
 )  
 ) By: Hon. James C. Turk  
 ) Senior United States District Judge

Plaintiff Kenneth Barbour, a Virginia inmate proceeding pro se, filed six separate civil rights complaints, each pursuant to 42 U.S.C. § 1983 with jurisdiction vested in 28 U.S.C. § 1334.

Plaintiff did not submit payment for any \$350 filing fee with any of his complaints. See 28 U.S.C. § 1914(a). However, plaintiff had at least three non-habeas civil complaints or appeals previously dismissed as frivolous or for failing to state a claim upon which relief may be granted. See, e.g., Barbour v. Virginia Department of Corrections, et al., 7:09-cv-00091 (W.D. Va. 2009); Barbour v. Virginia Department of Corrections, 7:09-cv-00083 (W.D. Va. 2009); Barbour v. Stanford, et al., 7:09-cv-00077 (W.D. Va. 2009).

In accordance with the three-strikes provision of 28 U.S.C. § 1915(g), the court previously advised plaintiff that he needed to submit the \$350.00 filing fee or establish an imminent threat of serious physical harm to proceed with a § 1983 civil suit. See, e.g., Barbour v. Keeffee Commissaries at VDOC's, No. 7:09-cv-00154 (W.D. Va. May 12, 2009). After reviewing plaintiff's submissions in the above-referenced civil actions, it is clear that plaintiff does not allege any facts indicating that he is currently under any imminent threat of any serious physical injury within the meaning of 28 U.S.C. § 1915(g). Based on the foregoing and the filed complaints, the court finds that plaintiff has failed to demonstrate any imminent danger of serious

physical harm in any complaint. Furthermore, plaintiff has not paid the \$350.00 filing fee despite being previously advised of having three strikes. See 28 U.S.C. § 1914(a).

Accordingly, the court dismisses the above-referenced civil actions without prejudice for failure to pay the filing fee at the time of filing the complaint. A separate order will issue this day.

The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the plaintiff.

ENTER: This 24<sup>th</sup> day of July, 2009.

  
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Senior United States District Judge